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Attorneys for JOHN ELMBURG, ROBERT  
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FLICK, CRESTWOOD HOLDINGS, INC. and  
BERGAN, LLC

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

MICHAEL MONTGOMERY,

Plaintiff,

v.

WAL-MART STORES, INC.;  
KINDERHOOK INDUSTRIES II, L.P.;  
KINDERHOOK INDUSTRIES, L.L.C.;  
KINDERHOOK CAPITAL FUND II, L.P.;  
CRESTWOOD HOLDINGS, INC.;  
BERGAN, L.L.C.; JOHN ELMBURG;  
ROBERT ELMBURG; ERIC ELMBURG;  
ROCKY FLICK; HOME DEPOT U.S.A.,  
INC.; DOES 1 through 20 inclusive,

Defendants.

Case No.: 12CV3057 JLS (DHB)

**DECLARATION OF ROBERT  
ELMBURG, PRESIDENT OF  
CRESTWOOD HOLDINGS, INC.,  
IN SUPPORT MOTION TO  
DISMISS FOR LACK OF  
STANDING (12(B)(1)), LACK OF  
PERSONAL JURISDICTION  
(12(B)(2)), AND FAILURE TO  
STATE A CLAIM (12(B)(6))**

Date: April 11, 2013  
Time: 1:30 p.m.  
Cttrm: 3B  
Judge: Hon. Janis L. Sammartino

1 I, Robert Elmburg, declare as follows:

2 1. The statements made in this declaration are based upon my personal  
3 knowledge, except where states upon information and belief, and if called to testify  
4 with regard to the same, I could do so competently.

5 2. At all relevant time to this matter, I have been the President of Crestwood  
6 Holdings, Inc., ("Crestwood Holdings") an Oklahoma corporation.

7 3. In 2002, the year of the Montgomery incident, Blitz U.S.A., Inc. ("Blitz")  
8 manufactured pet products and automotive products, including gasoline containers.

9 4. In 2002, Blitz was a family business owned by the Elmburg family. John  
10 Elmburg and his wife owned a majority interest in Blitz, and their sons, Eric and I,  
11 owned a minority interest.

12 5. On October 2, 2005, the Elmburg family each transferred our Blitz stock  
13 in exchange for a like number of shares in Crestwood Holdings. Following this  
14 transfer, John Elmburg and his wife owned a majority interest in Crestwood Holdings  
15 and Eric and I owned a minority interest. Following this transfer, the Elmburg family  
16 owned all issued and outstanding stock of Crestwood Holdings, and Crestwood  
17 Holdings owned all issued and outstanding stock of Blitz.

18 6. On September 21, 2007, Crestwood Holdings sold 100% of the Blitz  
19 stock to Blitz Acquisitions, LLC, ("Blitz Acquisitions") a Delaware limited liability  
20 company, and an entity unrelated to Crestwood Holdings. From and after September  
21 21, 2007, Crestwood Holdings held neither a direct nor indirect ownership interest in  
22 Blitz.

23 7. Crestwood Holdings has never manufactured or sold gasoline containers.

24 8. Crestwood Holdings has never manufactured products and has never  
25 injected any product into the stream of commerce with an expectation that such  
26 product will be sold in California.

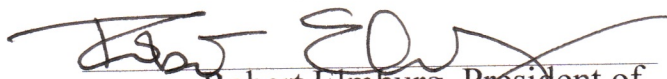
27 9. Crestwood Holdings makes no sales in California, has no California  
28 employees, does not solicit or engage in business in California, has no registered agent

1 in California, and is not registered in California as a foreign corporation.

2 10. On November 6, 2011, Blitz and Blitz Acquisitions filed for bankruptcy  
3 protection under Chapter 11 in the matter styled: *In re: Blitz U.S.A., Inc. et al.*,  
4 United States Bankruptcy Court for the District of Delaware, Case No. 11-13603-  
5 PJW. Such bankruptcy action is currently pending.

6 I declare under penalty of perjury that the foregoing is true and correct, except  
7 for those matters stated on information and belief and as to those, I believe them to be  
8 true.

9 Executed on this 5<sup>th</sup> day of March, 2013 at Monkey Island, Oklahoma.

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12 Robert Elmburg, President of  
13 Crestwood Holdings, Inc.  
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